

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Hearthside Food Solutions, LLC.,

Case No. 3:13-cv-00294

Plaintiff

v.

ORDER

Adrienne's Gourmet Foods, et al.,

Defendants

On November 10, 2014, I granted in part and denied in part the motion of Plaintiff Hearthside Food Solutions, LLC, for summary judgment. (Doc. No. 66 and 67). Through conversations with counsel for the parties as well as discussion in the parties' briefing submitted in support of and in opposition to the motion of Defendants Adrienne's Gourmet Foods ("AGF") and John O'Donnell to file amended counterclaims, it has become clear there is uncertainty regarding whether I granted or denied summary judgment on Hearthside's request for a declaratory judgment. I hereby amend the Memorandum Opinion and Order, (Doc. No. 66), and the Judgment Entry, (Doc. No. 67), to clarify that Hearthside's motion for summary judgment on its request for declaratory relief is denied.

Hearthside requests I "(a) declare that Hearthside does not owe AGF or O'Donnell any type of monetary compensation whether it be 'royalties' or a 'commission'; and (b) declare that Hearthside is not in possession of any proprietary formula [owned] by AGF or O'Donnell so as to make Hearthside liable to either [party] for compensation or damages." (Doc. No. 1 at 6). It is true Hearthside requested summary judgment on its request for declaratory relief. (*See* Doc. No. 54 at 1,

27). Hearthside, however, did not comply with Rule 56's requirement that it show "there is no genuine dispute as to any material fact and [it] is entitled to judgment as a matter of law" on its claims. Fed. R. Civ. P. 56(a). Instead, Hearthside developed legal and factual arguments only with respect to AGF's and O'Donnell's counterclaims. The counterclaims pled at the time of Hearthside's summary judgment filing do not encompass the universe of potential claims for monetary compensation, as the parties' subsequent briefing on Defendants' motion for leave to amend makes clear.

In sum, I amend my earlier summary judgment decision to clarify I deny Hearthside's motion for summary judgment as to its request for declaratory judgment because it did not present arguments in support of that motion and the counterclaims are not coextensive with Hearthside's claims.

So Ordered.

s/ Jeffrey J. Helmick
United States District Judge